



20 YEARS OF ANTI-CORRUPTION EFFORTS IN NIGERIA: A CRITICAL LOOK



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EXECUTIVE SUMMARY

Corruption in Nigeria is ubiquitous and takes many forms: from massive contract fraud to petty bribery; from straight-up embezzlement to complicated money laundering schemes. Just six years after independence, the country experienced its first military coup that ousted out the elected officials of the first republic. One notable justification for the 1966 coup d'etat by the military was the pervasive corruption of the first republic civilian leadership.

By 1999, Nigeria's international reputation had been badly tarnished by corruption. Among Nigerians similar attitudes prevailed. Nigeria was ranked as one of the most corrupt country ranked in the Transparency International's Corruption Perception Index. It was in this context that President Olusegun Obasanjo championed legislation setting up the Independent Corrupt Practices & Other Related Offences Commission (ICPC) in 2000. This paper explores Nigeria's ongoing anti-corruption efforts since the return to democracy in 1999. Highlighting the significant accomplishments of anti-corruption initiatives over the last two decades but also the many challenges encountered.

In contemporary Nigeria, anti-corruption activities take shape within the purview of three key institutions. The Economic and Financial Crimes Commission, which was established as a specialised agency with authority to investigate high-profile corruption cases, combat growing cybercrime, and coordinate all anti-corruption law enforcement activities. The ICPC, whose primary mission is to investigate

whistle-blower complaints and public petitions and prosecute public officials charged with corruption offences. And the Code of Conduct Bureau, which was established as the government's watchdog to investigate and prosecute public officials accused of corruption. Furthermore, special units such as the Technical Unit on Governance and Anti-Corruption Reforms, the Nigerian Financial Intelligence Unit, and the Police Special Fraud Unit have been established to support and monitor these efforts.

There have been notable anti-corruption achievements in the last two decades. The passage of critical anti-corruption legislation has revolutionised Nigeria's anti-corruption landscape, and it has continued to adapt to the shifting dynamics in corruption practices. In the area of prosecutions, non-traditional tactics such as plea bargains, asset forfeitures, and non-custodial sentences - following the enactment of the Correctional Service Act in 2019 - have become ways to bypass bottlenecks, resulting in faster convictions and financial losses for those convicted of corruption. Although not frequent, the prosecution of several high-profile individuals - like former governor Joshua Dariye in 2018 - has conveyed a clear message to senior officials that they are not untouchable.

Notwithstanding these and other accomplishments, Nigeria's anti-corruption efforts have faced substantial obstacles. Political influence over corruption investigations and prosecutions has frequently slowed, derailed or halted processes.

1 See: Matthew T. Page, *Innovative or Ineffective? Reassessing Anti-Corruption Law Enforcement in Nigeria* (Washington DC: Global Integrity, 2021), <https://ace.globalintegrity.org/wp-content/uploads/2021/02/Page-Nigeria-workingpaper9.pdf>

Such involvement has resulted in institutional damage and the alienation of international partners. The normalisation of corruption in the security sector has not only impeded anti-corruption measures but has also significantly contributed to the country's growing insecurity. It has generated opportunities for political and security elites to siphon funds through dubious arms procurement deals and increased use of security votes. Finally, strategic weaknesses have complicated the battle against corruption. Methods that are more reactive rather than proactive do not have a strong enough deterrent effect. Coupled with that is that all of Nigeria's presidents since 1999 have consistently turned a blind eye to their political allies' corrupt practices.

This paper makes six critical recommendations to improve anti-corruption efforts in Nigeria. To begin, politicians should be required to publicly disclose their sources of income to foster accountability and develop public trust. Second,

legislators should collaborate with anti-corruption agencies and commissions to enact legislation effecting the prosecution of corruption cases.

Thirdly, given the decentralised nature of cryptocurrency, legislators should amend vital legislation to address virtual money laundering concerns. Fourth, the National Assembly should revise the Code of Conduct Bureau Act to permit public disclosure of officeholders' asset declarations without jeopardising officeholders' privacy or safety. Fifth, the Presidency and National Assembly must strengthen their supervision over ministries, departments, and agencies and collaborate to reinforce their legal and administrative mandates.

Finally, Nigeria's international partners should support national efforts by taking firmer measures to deter public funds theft and prevent illicit financial flows.

1 See: Matthew T. Page, Innovative or Ineffective? Reassessing Anti-Corruption Law Enforcement in Nigeria (Washington DC: Global Integrity, 2021), <https://ace.globalintegrity.org/wp-content/uploads/2021/02/Page-Nigeria-workingpaper9.pdf>



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THE STORY SO FAR

To better understand the successes, failures and challenges ahead, it is necessary to examine the trajectory of Nigeria's anti-corruption efforts to date. Prior to Nigeria's 1999 return to civilian rule, successive governments made scant effort to combat corruption. In 1969, military ruler Yakubu Gowon enacted the Investigations of Assets (Public Officers and Other Persons) Decree aimed at identifying and seizing corruptly acquired assets of those who held political office prior to the July 1966 coup.²

Gowon's successor, Murtala Muhammed, promulgated a Corrupt Practices Decree in 1975 that established a powerful Corrupt Practices Investigation Bureau and made it an offence to corruptly solicit, offer or receive gratification or inducements with 'corrupt intent'.³ This decree, however, was repealed by his successor then-General Olusegun Obasanjo and replaced with the Code of Conduct for Public Officers in the 1979 Constitution.⁴ During his time as military head of state, Muhammadu Buhari (December 1983 - August 1985) is widely remembered for mounting a hands-on nationwide anti-corruption campaign—the War Against Indiscipline—that involved cracking down on

the black market as well as imprisoning hundreds of officials from his civilian predecessor Shehu Shagari's toppled government.⁵

Following Buhari's 1985 ouster, corruption blossomed under his successors: Ibrahim Babangida and Sani Abacha. Even as the Babangida and Abacha governments looted Nigeria's treasury with impunity, they dissimulated by enacting key laws that laid the groundwork for future anti-corruption efforts.

These include the Code of Conduct Bureau and Tribunal Act (1990), the Failed Banks (Recovery of Debts) and Malpractice Act (1994), and the Advance Fee Fraud and Other Related Offences Act (1995). Prosecutors used these new laws against 419 fraudsters, but they rarely prosecuted other financial crimes or cases of official corruption.⁶

The 1996 Failed Bank Tribunals were the cornerstone of the Abacha regime's purported anti-corruption efforts. The trials zeroed in on former officials and politically connected elites whose alleged mismanagement and malfeasance caused banks or public utilities to fail or become distressed.⁷

2 Esa O. Onoja, *Economic Crimes in Nigeria: Issues and Punishment* (Abuja: Lawlords Publications, 2018), 202.

3 Abel A. Emiko, "A Reflection on the the Nigerian Corrupt Practices Decree" *Journal of the Indian Law Institute*, vol. 19, no. 1, 1977, pp. 17–43, www.jstor.org/stable/43950461.

4 Onoja, 203.

5 Sheriff Folarin, "Corruption, Politics, and Governance in Nigeria" in Rotimi Ajayi and Joseph Olayinka Fashagba (eds), *Understanding Government and Politics in Nigeria* (Omu-Aran, Nigeria: Landmark University, 2014), 454.

6 Research interview with former senior EFCC official, September 24, 2019.

7 Remi Oyo, "Sweeping out the Dirt From Under Old Carpets", *Inter Press Service*, May 28, 1996, <http://www.ipsnews.net/1996/05/nigeria-politics-sweeping-out-the-dirt-from-under-old-carpets/>.

They also pursued delinquent contractors and debtors. Nuhu Ribadu, who served as one of the tribunal's investigators, noted that they "produced a lot of convictions and a lot of recoveries". However, the tribunals "soon degenerated into a witch-hunt" targeting vulnerable civilian politicians and businessmen while exempting the most corrupt individuals within the Abacha regime and military from scrutiny.⁸ In retrospect, Abacha's own efforts to loot Nigeria's treasury were intensifying even as his Failed Bank Tribunals were handing down corruption convictions. Since his 1998 death, it has become clear that Abacha stole billions of dollars from the country's coffers.⁹

By 1999, Nigeria's international reputation had been badly tarnished by corruption. In 2000, it ranked dead last in Transparency International's Corruption Perception Index.¹⁰ It was in this context that President Olusegun Obasanjo championed legislation setting up the ICPC. Before the new agency had time to become operational, however, the Financial Action Task Force (FATF) blacklisted Nigeria for having weak protections against money laundering, placing its financial institutions under heightened international scrutiny.¹¹ The 2001 FATF blacklisting prompted Nigeria to hastily create the Nigerian Financial Intelligence Unit (NFIU) and EFCC to meet international standards and thus avoid being ostracised from the mainstream global financial system.¹² Over the

next few years, Nigeria's current anti-corruption framework began to take shape.

One of the landmark achievements of the Obasanjo government was the establishment of the EFCC. Its creation had two main purposes: to help domesticate the provisions of the UN Convention Against Corruption and to create an agency more elite, dynamic, and capable than the ICPC.¹³ Rather than undertake a legislative battle to redefine and reestablish the ICPC as a catch-all anti-corruption body, Obasanjo instead used his political capital to push for the creation of a more specialised agency empowered to take on high-profile corruption cases, tackle worsening cybercrime and coordinate all anti-corruption law enforcement activities.

From its inception, the agency enjoyed a high degree of presidential support and international help. According to a former senior EFCC official, Obasanjo "was not interested in side attractions—he wanted to show results."¹⁴ Selected for his integrity and dynamism, the agency's pioneer chairman Nuhu Ribadu built the EFCC from the ground up. Ribadu carefully vetted the EFCC's initial cadre, drawing dedicated professionals with deep legal, financial and law enforcement expertise as well as "patriotic zeal".¹⁵

Despite its meager budget, basic facilities and relatively few staff, Ribadu's EFCC recorded

8 Kunle Amuwo, "Introduction. Transition as Democratic Regression" in 'Kunle Amuwo, Daniel C. Bach and Yann Lebeau (eds), Nigeria during the Abacha Years (1993–1998): The Domestic and International Politics of Democratization (Ibadan: IFRA, 2001), 10.

9 Late Nigerian Dictator Looted Nearly \$500 Million, Swiss Say', Associated Press, 19 August 2004.

<http://www.nytimes.com/2004/08/19/world/late-nigerian-dictator-looted-nearly-500-million-swiss-say.html>

10 Transparency International Releases the Year 2000 Corruption Perceptions Index," Transparency International, September 12, 2000, https://www.transparency.org/news/pressrelease/transparency_international_releases_the_year_2000_corruption_perceptions_index.

11 Nuhu Ribadu, Ribadu: My Story (Abuja: AFRICMIL, 2016), 50.

12 Research interview with senior EFCC official, September 24, 2019.

13 Ibid.

14 Research interview with senior former EFCC official, September 25, 2019.

15 Research interview with former senior EFCC official, September 26, 2019; Research interview with EFCC prosecutor, September 24, 2019.

some early successes. Its daring investigations and gutsy prosecutions of senior figures were new and notable. According to one EFCC prosecutor, these big cases “broke the jinx”, marking the end of a long period of anemic responses to worsening corruption.¹⁶

The EFCC's dynamism also attracted much-needed international financial and training assistance that Ribadu leveraged to further professionalise the agency's dedicated, tight-knit cadre.¹⁷ In 2005, the EFCC prosecuted Inspector General of Police Tafa Balogun, prompting him to step down and accept a deal in which pleaded guilty and returned millions of dollars in stolen assets in exchange for a reduced sentence.¹⁸ Two powerful ministers were also removed and prosecuted, sending a strong message that no presidential appointee was untouchable.¹⁹ The EFCC also pursued those responsible for one of the largest bank frauds of all time—the \$242 million Banco Noroeste scam—successfully locating some of the stolen funds.²⁰

The transfer of power from Obasanjo to Musa Yar'Adua in May 2007 ushered in a period of stagnation. From the outset of the Yar'Adua's presidency, Ribadu lacked the same degree of backing he had from Obasanjo. Ribadu's anti-corruption zeal had made many enemies and by 2008, “[he] had several powerful foes to contend with, and some of them were baying for blood.”²¹

Within weeks of his appointment, Attorney General Michael Aondoakaa tried to exert greater control over the EFCC and ICPC by securing a directive from President Yar'Adua mandating that the agencies must seek his personal approval before initiating prosecutions.²² However, the edict was quickly rescinded following strong pushback from the agencies and Yar'Adua's realisation that the directive violated a prior Supreme Court ruling.²³ But in December 2007, Aondoakaa removed Ribadu and subsequently hounded him out of the police force.²⁴ Ribadu acolyte Ibrahim Lamorde then briefly ran the agency for the next six months.

In June 2008, Yar'Adua's appointed Farida Waziri, the wife of a ruling party politician, to head the EFCC.²⁵ Waziri was widely seen as less zealous and more malleable than Ribadu and is widely remembered for performing poorly and undermining the EFCC's international credibility. While this characterisation is broadly true, Waziri's EFCC did initiate several high-profile prosecutions and, according to Central Bank officials, helped “sanitise the banking sector”.²⁶ For example, Waziri's EFCC negotiated a plea agreement with former Oceanic Bank managing director Cecilia Ibru—the scion of a powerful political and business family from Delta State—in which she served 18 months in jail and forfeited \$1.2 billion in assets.²⁷

16 Research interview with EFCC prosecutor, September 24, 2019.

17 Research interview with former senior EFCC official, September 26, 2019; Ribadu, 83.

18 Chris Albin-Lackey and Eric Gutschuss, *Corruption on Trial? The Record of Nigeria's Economic and Financial Crimes Commission*, (New York: Human Rights Watch, 2011), <https://www.hrw.org/reports/nigeria0811WebToPost.pdf>, 10.

19 Author interview with former senior EFCC official, September 26, 2019; “EFCC Quizzes Fasawe, Obasanjo's Associate”, Vanguard, September 24, 2005, <https://allafrica.com/stories/200509260429.html>.

20 Stephen Ellis, *This Present Darkness: A History of Nigerian Organised Crime* (London: Hurst, 2016), 166–168.

21 Olusegun Adeniyi, *Power, Politics and Death: A Front-Line Account of Nigeria Under the Late President Yar'Adua* (Lagos: Prestige, 2011), 29.

22 Patrick E. Igbinovia and Blessing A. Edobor-Igbinovia, *The Economic and Financial Crimes Commission in Nigeria: An Appraisal* (Ibadan: Safari Books, 2014), 76.

23 Attorney General Aondoakaa's Death Wish For EFCC”, Sahara Reporters, September 4, 2007, <http://saharareporters.com/2007/09/04/attorney-general-aondoakaa%E2%80%99s-death-wish-efcc>.

24 Albin-Lackey and Gutschuss, 29–30.

25 “PDP Primaries – Gombe Dep Gov, Others Lose Out”, Leadership, January 9, 2011, <https://allafrica.com/stories/201101101012.html>.

26 Albin-Lackey and Gutschuss, 15; 19–21.

27 “Nigeria banker jailed, ordered to hand over \$1.2 bln”, Reuters, October 8, 2010, <https://www.reuters.com/article/nigeria-banks/nigeria-banker-jailed-ordered-to-hand-over-1-2-bln-idUSLDE6971YA20101008>



Yar'Adua's incapacitation marked the start of the Goodluck Jonathan presidency. Acknowledging international concerns about Aondoakaa's malfeasance and Waziri's poor performance, Jonathan named Lamorde to head the EFCC. He also named a new attorney general, Mohammed Bello Adoke, a seasoned lawyer who helped reinvigorate and expedite international cooperation efforts.²⁸ Adoke also championed the Administration of Criminal Justice Act and Freedom of Information Act, two key pieces of legislation that have made positive contributions to anti-corruption prosecution and prevention efforts.²⁹ Nevertheless, Adoke has since become the target of corruption allegations and was arrested by the EFCC in December 2019.³⁰

Like the Obasanjo, Yar'Adua, and Jonathan administrations before it, the Buhari government has an anti-corruption track record that defies simple characterisation. On the one hand, Buhari has made the fight against corruption one of his signature issues. As a candidate in the 2015 presidential election, he ran on a strident anti-graft platform. Buhari has empowered anti-corruption agencies, freeing them up to pursue high-level prosecutions.

The Buhari administration has championed initiatives aimed at preventing corruption such as its insistence that government agencies use the Treasury Single Account, rather than their own bank accounts, and its push for tertiary educational institutions join the Integrated Payroll and Personnel Information System that other government entities must use.³¹

Yet the Buhari government has done little to institutionalise the so-called 'Buhari Effect', pursuing an enforcement-based strategy rather than pushing for deeper political and institutional reforms. He has turned a blind eye to allegations of corruption directed toward his inner circle and prominent ruling party figures, and his cabinet includes several individuals tainted by accusations of corruption.³² Buhari's government has also increased the use of corruption-prone slush funds known as 'security votes'.³³ It has also continued the practice of awarding crude oil lifting contracts to middlemen, briefcase companies and firms implicated in the 2010 fuel subsidy fraud scandal.³⁴ These decisions, among other moves, have cast a shadow over the Buhari government's anti-corruption achievements.

²⁸ Research interview with former senior EFCC official, September 24, 2019.

²⁹ Ibid.

³⁰ 'Adoke now with us, to face trial over Malabu scandal – EFCC', Premium Times, December 19, 2019, <https://www.premiumtimesng.com/news/headlines/369074-adoke-now-with-us-to-face-trial-over-malabu-scandal-efcc.html>

³¹ Research interview with senior ICPC official, September 27, 2019.

³² Nigeria's Buhari Faces Flak Over Cabinet Picks", AFP, August 2, 2019, <https://www.voanews.com/africa/nigerias-buhari-faces-flak-over-cabinet-picks>; "The Gang of 43 Breaks Cover", Africa Confidential, July 26, 2019, https://www.africa-confidential.com/article/id/12703/The_Gang_of_43_breaks_cover; Ini Dele-Adedeji, "Why Buhari's long-awaited cabinet leaves a lot to be desired", The Conversation, August 14, 2019, <http://theconversation.com/why-buharis-long-awaited-cabinet-leaves-a-lot-to-be-desired-121446>.

³³ Matthew T. Page, Camouflaged Cash: How 'Security Votes' Fuel Corruption in Nigeria (London: Transparency International, 2018), http://ti-defence.org/wp-content/uploads/2018/05/DSP_Nigeria_Camouflage_Cash_Web2.pdf.

³⁴ Ben Ezeamalu, "Firms facing trial for multi-billion subsidy fraud to lift Nigerian crude in 2017", Premium Times, January 12, 2017, <https://www.premiumtimesng.com/news/headlines/220227-shocking-firms-facing-trial-for-multi-billion-subsidy-fraud-to-lift-nigerian-crude-in-2017.html>.

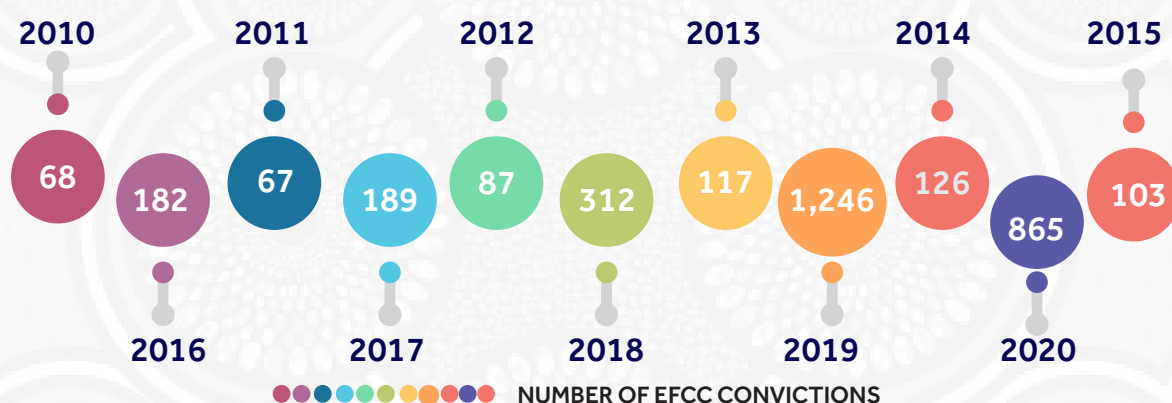


2

**NIGERIA'S
ANTI-CORRUPTION
AGENCIES:
A WHO'S WHO**

The Economic and Financial Crimes Commission

Out of Nigeria's three main anti-corruption agencies, the EFCC plays the most prominent and impactful role. Larger and better funded than the ICPC and Code of Conduct Bureau (CCB), it enjoys a broad range of investigatory and law enforcement powers. Roughly 3,000-strong, the EFCC is mostly staffed by seconded police personnel. In addition to investigating prominent politicians and powerful bureaucrats, the commission routinely prosecutes those involved in internet scams, currency counterfeiting, and other economic crimes. Indeed, it secures roughly 50 cybercrime convictions for every corruption case involving a politically-exposed person.³⁵



The Independent Corrupt Practices and Other Related Offences Commission

The ICPC's primary mandate is to investigate whistleblower complaints and public petitions and prosecute public officials accused of corruption offenses.³⁶ The agency can also initiate its own investigations.³⁷ Established in 2000, the ICPC is primarily staffed by civil servants supplemented by seconded law enforcement personnel. It must work through Attorney General's office to prosecute cases. As of 2020, the ICPC has a staff strength of about 780.³⁸ The ICPC also has two important, but often overlooked, secondary mandates: partnering with civil society and the general public on anti-corruption efforts and working with other government agencies and some state governments to help them identify vulnerabilities and reduce corruption risks ('systems studies').³⁹

³⁵ Research interview with senior EFCC official, September 25, 2019.

³⁶ The Corrupt Practices and Other Related Offences Act (2000), §6.

³⁷ In *Mela Yakubu v FRN*, an appellate court held that ICPC does not need to wait for petitions or complaints before it can launch investigations.

³⁸ Text message from senior ICPC official received by author, March 3, 2020.

³⁹ The Corrupt Practices and Other Related Offences Act (2000), §6.

The Code of Conduct Bureau

Less dynamic than its sister agencies, the CCB is a governmental watchdog with significant unrealised potential. It also has a narrower anti-corruption mandate: investigating suspected violations of the code of conduct for public officials enshrined in Nigeria's constitution. The CCB prosecutes in its own separate and independent court: The Code of Conduct Tribunal. The agency has roughly 800 staff and an annual budget of about N2.9 billion (\$8 million).⁴⁰ First established in 1979, the CCB lacked a solid legal foundation until 1990 when the National Assembly passed The Code of Conduct Bureau and Tribunal Act. The CCB's primary function is to gather asset declarations made by all public officeholders at prescribed intervals during their careers and check their accuracy.⁴¹ Counterproductively, these asset declarations are not publicly disclosed.⁴²

Ministry of Justice

As the Nigeria's chief law officers, the Minister of Justice and Attorney General of the Federation oversee all public prosecutions, including anti-corruption cases.⁴³ This function is handled by the Director of Public Prosecutions, a department head within the ministry. All mutual legal assistance, extradition, and other cooperation requests from international anti-corruption agencies like the United States' Federal Bureau of Investigation and the UK's National Crime Agency are handled by the ministry's Central Authority Unit.⁴⁴

Technical Unit on Governance and Anti-Corruption Reforms

A tiny office within the Presidency, TUGAR facilitates interagency coordination, cooperation and information sharing on corruption-related issues. Minimally staffed and funded, TUGAR has relied on international donors to sustain its work. TUGAR also serves as the secretariat for the Inter-Agency Task Team, an interagency coordinator body that brings together the heads of 21 different Nigerian government ministries, departments and agencies with anti-corruption equities.⁴⁵ President Obasanjo set up TUGAR in 2006 for the purpose of monitoring Nigerian government anti-corruption initiatives, evaluate their structures and effectiveness, encourage cooperation and enable reforms.⁴⁶

40 Text message from senior CCB official, March 3, 2020; Federal Republic of Nigeria, 2019 Appropriation Act, 1317.

41 Research interview with senior CCB official, September 25, 2019.

42 Yusuf Akinpelu, "Why CCB Will Not Release Asset Declarations of Buhari, Osinbajo, Others - Official", Premium Times, October 7, 2019, <https://allafrica.com/stories/201910070400.html>

43 Constitution of the Federal Republic of Nigeria (1999), §174.

44 Implementation Review Group, "Fifth Session, Review of Implementation of UNCAC, Executive Summary: Nigeria", June 4, 2014, [https://www.unodc.org/documents/treaties/UNCAC/Working Groups/ImplementationReviewGroup/2-6June2014/V1403646e.pdf](https://www.unodc.org/documents/treaties/UNCAC/Working%20Groups/ImplementationReviewGroup/2-6June2014/V1403646e.pdf), 10.

45 Author interview with TUGAR representative, September 30, 2019.

46 "Thematic Compilation of Relevant Information Submitted by Nigeria: Article 6 UNCAC – Preventative Anti-Corruption Body or Bodies", Federal Government of Nigeria, undated, 11, https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/Nigeria.pdf.

Nigerian Financial Intelligence Unit

Previously part of the EFCC, the NFIU is now domiciled within the Central Bank of Nigeria. The unit plays a support function to anti-corruption law enforcement, gathering and analysing intelligence on money laundering and terrorist financing activities. It receives and analyses suspicious transaction reports filed by financial institutions and other designated non-financial businesses and professional entities as well as other information as needed.⁴⁷ The NFIU also provides intelligence and analysis on money laundering to law enforcement agencies for use in investigations and prosecutions. The Obasanjo government established the unit in 2004 to comply with international mandates, but also to give the EFCC greater investigative access to domestic financial institutions.⁴⁸ Since its inception, international donors have provided over US\$10 million in support to the NFIU.⁴⁹

Police Special Fraud Unit

The PSFU is a section within the Criminal Investigation Department of the Nigeria Police Force. Based in Lagos, the PSFU investigates cases of fraud before referring them to police prosecutors or the EFCC for prosecution.⁵⁰ In recent years, it has investigated cases relating to visa, employment, internet, insurance and banking fraud.

47 Nigerian Financial Intelligence Unit Act (2018), <https://placng.org/wp/wp-content/uploads/2018/07/Nigerian-Financial-Intelligence-Unit-Act-2018.pdf>

48 Nigeria Financial Intelligence Unit, <https://www.nfiu.gov.ng/>; Research interview with former senior EFCC official, September 26, 2019.

49 Research interview with former senior EFCC official, September 24, 2019.

50 Police Special Fraud Unit, Nigeria Police Force, "About Us", http://www.specialfraudunit.org.ng/en/?page_id=84

A bronze statue of Lady Justice, blindfolded and holding scales of justice, with the number 3 in a blue circle.

TOP 3 ACHIEVEMENTS

Passage of Key Laws

Virtually all of Nigeria's anti-corruption achievements to date have been enabled by a robust, albeit imperfect, legal framework that has taken shape over the last two decades

Figure 2: Key Laws Enacted Since 1999

Corrupt Practices and Other Related Offences Act	2000
Economic and Financial Crimes Commission (Establishment) Act	2004
Miscellaneous Offences Act	2004
Advance Fee Fraud and Other Related Offences Act	2006
Public Procurement Act	2007
Evidence Act (as amended)	2011
Money Laundering (Prohibition) Act (as amended)	2011
Freedom of Information Act	2011
Administration of Criminal Justice Act	2015
Cybercrime (Prohibition, Prevention, etc) Act	2015
Nigerian Financial Intelligence Unit Act	2018
Nigerian Correctional Services Act	2019

Figure 2 illustrates the complex patchwork of laws that shape anti-corruption law enforcement in Nigeria. Prior to the passage of ACJA in 2015, corruption trials involving high-profile defendants were easily stymied by concocted delays, often resulting from procedural objections or the unexplained absence of defendants or their lawyers. This, according to one EFCC prosecutor, was "a major loophole".⁵¹ Under ACJA, however, the number, timing, and justification for adjournments are clearly outlined.⁵² For example, if a defendant fails to appear in court, a judge may only adjourn twice before proceeding with the trial in absentia.⁵³

The 2015 law also stipulates that objections must be resolved during the course of the trial,

instead of triggering additional adjournments⁵⁴. Nigerian law has—in the words of a former senior EFCC official—become "more friendly to prosecutors" in recent years.⁵⁵

Since 1999, Nigeria has also sought to conform to an emerging set of international anti-corruption norms. It signed both the United Nations Convention against Corruption and the UN Convention against Transnational Organized Crime. It also ratified the African Union Convention on Preventing and Combating Corruption. Nigeria's accession to these agreements has, however, given successive presidents undeserved cover, inoculating them against accusations that they have not doing enough to prevent and combat corruption.

51 Research interview with EFCC prosecutor, September 24, 2019.

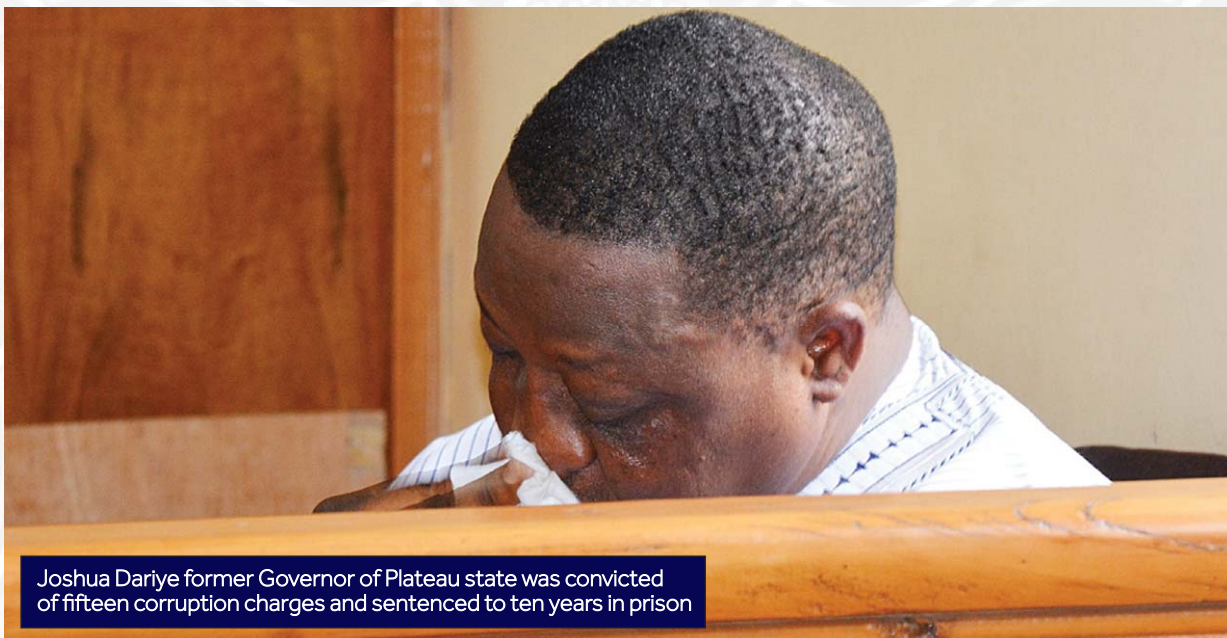
52 Administration of Criminal Justice Act (2015), §396.

https://www.policinglaw.info/assets/downloads/2015_Administration_of_Criminal_Justice_Act.pdf.

53 Administration of Criminal Justice Act (2015), §352.

54 Administration of Criminal Justice Act (2015), §396.

55 Research interview with former senior EFCC official, September 24, 2019



High-Profile Convictions

Nigeria's anti-corruption agencies can also claim credit for several high-profile corruption convictions over the last two decades. These include the 2018 conviction of Joshua Dariye, a senator and former governor of Plateau State, on charges of embezzlement. After a legal process that lasted eleven years, Dariye was convicted of fifteen corruption charges and sentenced to ten years in prison. During her sentencing, the judge lamented not only the financial cost of Dariye's malfeasance, but also the human cost—specifically the ruined reputations of individuals who helped the former governor misappropriate funds:

I cannot imagine such brazen act[s] of systematic looting and stealing, as what occurred in this case...[It] left a litany of woes and a devastating trail of victims, who

even though they were adults capable of making rational choices, ended up being scarred. How do we count the physical, moral and sociological costs of the people involved in this tragedy of corruption?⁵⁶

Although too few and far between, high-profile wins like the Dariye case demonstrate that elites' invulnerability to corruption prosecutions, while formidable, is not absolute. They also demonstrate anti-corruption agencies' unrealised potential, showing what they could achieve if they and Nigeria's judiciary are better resourced and staffed, freed from political interference and given a more coherent set of legal tools to work with. Until they are, high-level convictions will remain significant but rare achievements.

⁵⁶ Ibid, 206

Innovation and Adaptation

Nigeria's anti-corruption efforts have become more effective as practitioners adapt and innovate in response to the many challenges they face. Instead of being abandoned under pressure or resulting in drawn-out, quixotic prosecutions, corruption investigations are finding new, more pragmatic resolutions such as plea bargains, voluntary repayment of unexplained wealth and asset forfeiture. It is likely that probationary and other non-custodial sentences will soon become commonplace. This shifting paradigm reflects a growing pragmatism among both Nigeria's anti-corruption agencies and its judiciary in their approach to corruption cases.

The use of non-custodial sentencing, in particular, is notable. Though still limited in scope, it likely will increase following passage of the Correctional Service Act of 2019. The new law creates a non-custodial service within the Nigerian Correctional Service (formerly the Nigerian Prison Service) responsible for the administration of probation, parole, community service, restorative justice, and any other non-custodial measures.⁵⁷ Some judges are already embracing the use of counseling and rehabilitation, as opposed to lengthy prison sentences, especially for young men convicted of cybercrimes.⁵⁸

Nigeria's anti-corruption agencies have also recovered roughly N900 billion (\$2.5 billion) in stolen assets over the last two decades.⁵⁹ Asset forfeiture—whether through a criminal

conviction or via civil action—has become the primary mechanism for depriving corruption suspects of the material gain from their alleged financial or economic crime.⁶⁰ Though always a priority, asset recovery has arguably been a cornerstone of the Buhari government's anti-corruption strategy. Reflecting this strategic shift in emphasis, the EFCC now painstakingly seeks to identify assets from the start of any corruption investigation in order to freeze them and see if they can be linked to a defendant's alleged predicate crimes.⁶¹

The increasing rate of asset forfeiture is, however, straining the capability of the EFCC and ICPC to manage and dispose of those assets. Whether buildings, active businesses, vehicles, or luxury goods, seized items must be accounted for, managed, maintained, and/or safely stored until they can be auctioned or repurposed for public gain. Unfortunately, many of these assets deteriorate before they can be sold, losing some or all of their value while agencies' navigate bureaucratic and legal obstacles preventing their quick disposal.⁶² In a few instances, the EFCC has innovated by turning over seized buildings to other government agencies to use as office space; that way, the government can gain use from the property well even if the legal process surrounding its final forfeiture has yet to be resolved.⁶³ This tactical shift demonstrates that Nigeria's anti-corruption agencies are aware of their own failures and capable of taking some steps to offset them.

57 Nigerian Correctional Service Act (2019), §37, <https://placng.org/wp/wp-content/uploads/2019/08/Nigerian-Correctional-Service-Act-2019.pdf>.

58 Research interview with EFCC prosecutor, September 24, 2019.

59 Research interview with senior EFCC official, September 23, 2019.

60 Research interview with senior EFCC prosecutor, September 24, 2019.

61 Ibid.

62 Ibid.

63 Ibid; Kunle Sanni, "VON takes over building seized from Nigeria's ex-military chief accused of corruption", Premium Times, July 17, 2019, <https://www.premiumtimesng.com/news/top-news/341477-von-takes-over-building-seized-from-nigerias-ex-military-chief-accused-of-corruption.html>



4

NOTABLE FAILURES

Despite realising these and other achievements, Nigerian anti-corruption efforts have also been beset by significant challenges over the last two decades. These failures include the continuation of political interference in corruption investigations and prosecutions, the normalisation of security sector corruption and top officials' unwillingness to do more to prevent corruption and do more to deliver public goods—rather than personal patronage—to their constituents.

Political Interference

Interference by actors aiming to sabotage anti-corruption law enforcement is common. This type of negative interference can be exerted by the targets of investigations and prosecutions themselves or their lawyers, political supporters, business associates, ethnic kinspeople, friends, relatives, or even sympathetic officials.⁶⁴ Compromising prosecutors has been an especially effective tactic, since a defendant automatically walks free if they fail to prove their case beyond reasonable doubt.

Strategic decisions about whether, when, or how to prosecute—often taken by agency heads or the Attorney General⁶⁵ or even following influence from the Presidency itself—shape the outcome of high-level corruption prosecutions. In June 2019, for example, the EFCC stepped back from its role in prosecuting former Gombe state governor Danjuma Goje, handing the prosecution over to the Office of the Attorney General. He then withdrew criminal charges from Goje, a ruling

party senator who days earlier had dropped his ambition to run for the senate presidency and endorsed the candidate President Buhari reportedly preferred.⁶⁶

Historically, political influence over anti-corruption law enforcement reached its height during the controversial tenure of Attorney General Michael Aondoakaa (2007–2010).⁶⁷ Aondoakaa and his EFCC chief Farida Waziri rapidly purged the EFCC of officers trained by the agency's respected founder, Nuhu Ribadu, thereby alienating international partners that had helped train them. Also problematic was the widely held perception that Waziri's appointment was orchestrated—according to U.S. diplomats at the time—by several governors under EFCC investigation.⁶⁸ Beyond the institutional damage Aondoakaa did to the EFCC, he also interfered with key corruption prosecutions.⁶⁹ Actively frustrating a UK criminal investigation into former Delta State Governor James Ibori.⁷⁰

64 Page (2021), 38.

65 Timileyin Omilana and Mathew Ogune, "EFCC denies withdrawing alleged fraud case against Goje", The Guardian (Nigeria), June 8, 2019, <https://guardian.ng/news/efcc-denies-withdrawing-alleged-fraud-case-against-goje/>.

66 Jonathan Nda-Isaiah, "Why Govt Withdrew Criminal Charges Against Me - Senator Goje", Leadership, July 19, 2019, <https://allafrica.com/stories/201907190053.html>.

67 Research interview with former senior EFCC official, September 24, 2019.

68 "New EFCC Chair Appointed, Ex-Governors Rumored Involved", U.S. Embassy Abuja, May 16, 2008.

69 Research interview with former senior EFCC official, September 24, 2019.

70 "Ibori Case Hampered by EFCC-AG Rift", U.S. Embassy Abuja, October 26, 2007.

Political interference lessened somewhat but remained a significant challenge during the Jonathan presidency (2010-2015). In March 2013, for example, Jonathan nullified one of the EFCC's highest profile prosecutorial successes—albeit constitutionally—by pardoning former Bayelsa State governor Diepreye Alamieyeseigha.⁷¹ Jonathan's decision, which took the EFCC by surprise, embarrassed and demoralised the agency and drew rebukes from the U.S. and UK governments.⁷² Ribadu called it the “final nail” in the coffin in the fight against corruption under Jonathan.⁷³

These recent episodes illustrate how easy it is for vested interests to delay or derail high-level corruption prosecutions. Though direct interference is unmistakable, high-level political pressure is often subtly conveyed; anti-corruption agencies often pay close attention to the ‘body language’ of the President and Attorney General as it relates to politically-sensitive high-level cases they are pursuing.⁷⁴ If they sense that the President opposes a particular investigation or prosecution, they may slow or suspend it. Until the frequency and intensity of political interference decreases, it will continue to cast a shadow over Nigeria's anti-corruption track record.

Security Sector Corruption

Successive presidents' failure to rein in security sector corruption is a highly consequential anti-corruption failure. It has led to widespread insecurity, verging on instability, and has weakened Nigerian counterterrorism capacity, allowing groups like Boko Haram to smoulder. Over the last decade, political and security elites have monetised the conflict and the resulting humanitarian crisis. During the same period, military leaders allegedly stole as much as \$15 billion through fraudulent arms procurement deals thanks to lax legislative oversight, excessive secrecy and the fact that security spending is largely exempt from due process rules designed to prevent corruption.⁷⁵

For their part, state governors have used rising insecurity as a pretext for funding paramilitary

and vigilante groups, and demanding larger security votes at the expense of health, education and infrastructure spending. Over the last twenty years, governors' corruption-prone, ad hoc security spending has increased to over N208.8 billion (\$580 million) annually.⁷⁶

Likewise, federal officials access to security votes has also risen sharply, growing from about 30 such funds in 2016 (worth N9.3 billion or \$46.2 million in total at the time) to over 190 (then worth N18.4 billion or \$51 million in total at the time) in 2018.⁷⁷ Because they are able to enrich themselves through security sector corruption, Nigeria's elites now see perpetual conflict as more lucrative than peace.

71 Nigeria pardons Goodluck Jonathan ally, Alamieyeseigha”, BBC News, March 13, 2013, <https://www.bbc.co.uk/news/world-africa-21769047>

72 Research interview with former senior EFCC official, September 29, 2019; Adam Nossiter, “U.S. Embassy Criticizes Pardons in Nigerian Corruption Cases”, New York Times, March 15, 2013, <https://www.nytimes.com/2013/03/16/world/africa/us-embassy-criticizes-pardons-in-nigeria-corruption-cases.html>; Nnena Ibeh, “Nigerian Government silent on British request to extradite Alamieyeseigha”, Premium Times, April 3, 2103, <https://www.premiumtimesng.com/news/128107-nigerian-government-silent-on-british-request-to-extradite-alamieyeseigha.html>.

73 Bolaji Abdullahi, *On a Platter of Gold: How Jonathan Won and Lost Nigeria* (Lagos: Prestige, 2017), 339.

74 Research interview with former senior EFCC official, September 24, 2019.

75 Generals on the run”, Africa Confidential, 20 February 2020, https://www.africa-confidential.com/article-preview/id/12867/Generals_on_the_run.

76 Page (2018).

77 Ibid.

Prevention Shortfalls

A third significant failure is successive governments' unwillingness to do more to prevent corruption from occurring in the first place. Disproportionate attention has been focused on investigating malfeasance and recovering a small fraction of the huge sums of public money stolen each year. This endgame-focused anti-corruption approach effectively gives Nigeria's kleptocratic officials license to steal, given they run a very low risk of getting caught or having their proceeds of crime seized. Unless better legislation, administrative reforms, and more proactive enforcement efforts can prevent corruption from taking place in the first place, prevention will remain the missing link in Nigeria's anti-corruption efforts.

To truly energise corruption prevention efforts Nigeria's topmost officials and party leaders must begin reining in the excesses of the country's patronage-fueled political culture. Since 1999, every Nigerian president has proven willing to appoint individuals of questionable integrity to key positions, shield political allies from corruption investigations and feign ignorance about how their ruling party funds its election campaigns. Every president has also turned a blind eye to corrupt practices in the petroleum, defence and power sectors (among others) and influence peddling by their inner circle. Until this tacit, high-level approval of political and bureau corruption diminishes, Nigeria's anti-corruption efforts will continue to struggle against the odds.



5

**THE WAY
FORWARD**

Over the last two decades, Nigeria has made progress in the fight against corruption, but not near enough to slow its octopoidal expansion. Nevertheless, the positive effects of capable leadership—as well as the damage caused by undue political influence—are clearly evident. So too is the resilience and commitment shown by Nigeria's anti-corruption practitioners in the face of major political, legal and operational challenges.

Looking ahead, additional progress will require fresh high-level impetus, broader cultural shifts and the emergence of a stronger set of disincentives both at home and abroad. For the situation to improve, the murky origins of many elites' unexplained wealth can no longer enjoy the benefit of doubt. Officials should be expected to publicly disclose their sources of income to restore public trust and cultivate the expectation of transparency and accountability in public life. Instead of turning a blind eye to the problem, Nigerian and international policymakers should continuously be making reforms and erecting safeguards that make corruption more difficult and less lucrative.

In the short-to-medium term, there are limited prospects for progress until the Presidency, the National Assembly and state governors signal their willingness to become enablers of—rather than obstacles to—long overdue anti-corruption reforms and shifts in political. In the meantime, reform-minded legislators could partner with the EFCC, ICPC, CCB, and the Nigerian Law Reform Commission to undertake needed legislative fixes and improvements to their establishing acts and other key laws that they routinely use to prosecute cases. If these changes are modest, pragmatic and balance prosecutors' requirements with the rights of the accused, they could win broad support from legislators. Likewise, legislators could amend key law to address the anti-money laundering challenges posed by crypto-assets or put in place a much-needed witness protection programme.

The National Assembly also should amend the CCB Act to provide a legal basis for online asset declarations, rationalise attestation requirements, modernise declaration forms to reflect new types of assets, set guidelines for the public disclosure of officials' asset declarations and increase penalties for public officeholders who fail to make asset declarations. Done carefully and according to guidelines in use in other countries, public disclosure of asset declarations is possible without putting officeholders' privacy or safety at risk.

The Presidency and National Assembly also need to exercise stronger oversight over ministries, departments and agencies. They should work together to strengthen the legal and administrative mandates of those government entities that help prevent corruption, particularly the CCB, ICPC, Bureau for Public Procurement and Bureau of Public Service Reforms. All federal and state entities, for example, should undergo ICPC-led system studies in which the agency reviews their practices and provides tailored recommendations aimed at preventing corruption. The Presidency and state governors should then ensure those remedial measures are implemented.

For their part, Nigeria's international partners—many of whom claim to support its anti-corruption efforts—must take stop enabling its kleptocrats and take stronger steps to disincentivise the theft of public funds. They should do more to prevent kleptocrats from Nigeria and other high-risk jurisdictions from spending unexplained wealth on high-end properties and education in the U.S. and UK. Western policy makers must also acknowledge the degree to which the international financial system and outside enablers facilitate illicit financial flows out of Nigeria. Until they do so, Nigeria's anemic anti-corruption record will continue to mirror their own.



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